

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
CIVIL ACTION NO: 5:11-CV-00003-BO

SIGMA CAPITAL GROUP, INC. and
BLUE HARBOR ENERGY, L.L.C.,

Plaintiff

v.

THERMAL VENTURES, INC., CARL
AVERS, as President and CEO of
Thermal Ventures, Inc., CARL AVERS,
individually, YOUNGSTOWN
TRUST 2007, and PRISCILLA A. AVERS
as Trustee of Youngstown Trust 2007

Defendants

**CONSENT ORDER FOR
JUDGMENT AND DISMISSAL**

This matter is before the Court upon joint motion of all parties for entry of this Consent Order. The parties have represented that the parties have agreed upon a settlement of all claims in this action and that this Consent Order is consistent with and necessary to implement the agreed settlement. The Court concludes that entry of the Consent Order is consistent with the interest of justice, the public policy in favor of settlements and the fair and efficient administration of justice.

It is therefore ordered as follows:

1. Judgment shall be entered in favor of the Plaintiffs against Defendant Thermal Ventures, Inc. ["TVI"] in the amount of \$763,191.20. Plaintiffs, as judgment creditors, have waived execution of this judgment against any right or interest of TVI in the entity known as Thermal Ventures II, L.P. ["TVI II"], including distributions therefrom and the Judgment shall include notation of this waiver. In accordance with the parties' Agreement, Plaintiffs shall refrain from executing, attempting to enforce the judgment, or domesticating it in any other

jurisdiction until the Bankruptcy Court in the bankruptcy case of Carl Avers makes a final ruling approving this settlement.

2. Judgment shall be entered in favor of the Plaintiffs against Defendant Youngstown Trust 2007 in the amount of \$763,191.20. In accordance with the parties' agreement, Plaintiffs shall refrain from executing, attempting to enforce the judgment, or domesticating it in any other jurisdiction until the Bankruptcy Court makes a final ruling approving this settlement in the Carl Avers bankruptcy case.

3. Upon entry of the judgments provided in Paragraphs 1 and 2 of this Order, this action and all remaining claims herein are hereby dismissed without prejudice. If Plaintiffs hereafter re-file a new lawsuit on the claims asserted herein, such new lawsuit shall be treated the same for purposes of the Statute of Limitations and other time-based defenses as if it were commenced at the time this action was commenced provided that such new lawsuit is filed within the time and subject to the limitations stated in the parties' agreement.

4. The Clerk shall enter judgments in accordance with this Order.

5. Each party shall bear its own court costs and other litigation costs.

SO ORDERED,

This the 23 day of January 2014.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE

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